



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,741	03/06/2000	Aurel D. Brumboiu	28959-7	7977

7590 03/26/2003

Roseann B. Caldwell
Bennett Jones
4500 Bankers Hall East
855 - 2nd Street SW
Calgary, AB T2P 4K7
CANADA

[REDACTED] EXAMINER

CROSS, LATOYA I

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1743

DATE MAILED: 03/26/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/519,741	BRUMBOIU ET AL.
	Examiner LaToya I. Cross	Art Unit 1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 January 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15 and 20-43 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 14, 15, 33-39 and 43 is/are allowed.

6) Claim(s) 1-13, 20-32 and 40-42 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

This Office Action is in response to Applicants' amendment filed on January 2, 2003 and entered as Paper No. 6. Claims 1-15 and 20-43 are pending.

Withdrawal of Rejections from Previous Office Action

- The rejection of claims 1-3, 6, 8, 9, 11 and 13-15 under 35 USC 103 over Yokoyama et al in view of Ledez et al is withdrawn in view of Applicants' amendment that changes the method from a method of obtaining a correction factor to a method of determining the response of a gas-in-liquid concentration measurement device. With respect to claims 11 and 13-15, the rejection is being withdrawn in view of Applicants' argument that neither Yokoyama et al nor Ledez et al teaches obtaining a correction factor using a first and second mathematical function to be used in determining the concentration of gas in a liquid.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
2. Claims 1-10, 20-25, 40 and 41 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claims 1 and 8 have been amended to recite a method for determining the response of a gas-in-liquid

Art Unit: 1743

concentration measuring device where a second mathematical function representative of the response of the gas-in-liquid concentration measurement device when the concentration of the gas is above the solubility threshold is determined. The original specification lacks support for such a method. Applicants' specification provides for a method of determining the concentration of gas in a liquid, as in independent claim 14, and a method for obtaining a correction factor for measuring a concentration of gas in a liquid (as was recited in the originally filed claims). Further, the original specification provides for a method for preparing a concentration measurement device, as in independent claim 11. There is no support in the original specification for determining the response of a gas-in-liquid concentration measuring device. In fact, the specification fails to even mention the "response of a gas-in-liquid concentration measuring device". The claims as amended are considered to be new matter.

The new matter must be cancelled.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-13, 26-32 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites "a method for preparing a concentration determining device". The method steps that follow the preamble do not appear to result in a concentration determining device. Rather, it appears that the method step result in an instrument (a correction factor) that may be used in helping to determine the concentration of gas being measuring using a concentration determining device. Further clarification is required.

Allowable Subject Matter

5. Claims 14, 15, 33-39 and 43 are allowed.

Claims 14, 15, 33-39 and 43 are being indicated as allowable because the prior art of record fails to teach or suggest determining the concentration of gas in a liquid whereby 1) a gas concentration measuring device is used to determine the concentration of gas in the liquid and 2) a correction factor is applied whereby the correction factor is obtained by a comparison of a first mathematical function, generated from measurements of the gas at known concentrations, and a second mathematical function, deduced from a theoretical response using the first mathematical function.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

lic
March 21, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700